



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : CHI/00MR/LDC/2020/0084

Property : Grafton Street Block C 128-182 (EVENS)
Grafton Street, Buckland, Portsmouth
PO2 7LN

Applicant : Portsmouth City Council – Leasehold
Services

Representative :

Respondents : Mr & Mrs J Taylor

Representative : -

Type of Application : To dispense with the requirement to
consult lessees about major works

Tribunal Member(s) : Judge Tildesley OBE

**Date and Venue of
Hearing** : Determination on Papers

Date of Decision : 18 November 2020

DECISION

The Application

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act.
2. The Applicant explains that it proposes to replace the landing Cills and lift car door track to one of the lifts in the block using one of its long term service providers.
3. The Applicant states that there is an urgent element to these works in that the fixings for both the lift car track and landing cills are compromised due to the external nature of the lift shaft. Water ingress and low temperatures has led to excessive rust and corrosion that is affecting the integrity of the fixings and has over time warped the tracks.
4. Further the Applicant states that these works are specialist and technical as the existing control system is suspended at the top of the lift shaft and wired as a cam bus system that will need fully re-wired and would require a company that can adapt and work with the issues found whilst replacing each component and resolve the issue that will arise in the replacement.
5. The Applicant advises that it decided to place the order for the lift repair works through its Long Term Service Providers for the following reasons:
 - The lift contract works was procured in 2011 when there was little work about and the prices received from the Providers were highly competitive. Over the past seven years their prices have only increased by the trade inflation rates.
 - If the contract was to be tendered now, with the increase of work nationally, the prices received would be considerably more than what the Applicant is presently paying.
 - The Providers know the Applicant's buildings and have a good record of delivery.
6. The Applicant asserts that a reduced tender process would enable the project to be completed as soon as possible and minimise the risks to residents. This entails awarding the work to the cheaper of the two existing long-term lift maintenance contractors at rates determined with in the existing contracts. The value of this particular project is estimated to be £70,000. According to the Applicant the contribution from Leaseholders would come from the existing reserve fund balance. The contribution for a leaseholder is estimated at £528.
7. The Applicant is confident that this reduced tender process would represent value for money for leaseholders.
8. The proposals were described in a letter from the Applicant to the Respondents dated 22 October 2020.
9. The Application for dispensation was received on 4 November 2020.

10. On 4 November 2020 the Tribunal directed that the matter is urgent, it is not practicable for there to be a hearing and it is in the interests of justice to make a decision disposing of the proceedings without a hearing (rule 6A of the Tribunal Procedure Rules 2013 as amended by The Tribunal Procedure (Coronavirus) Amendment Rules 2020 SI 2020 No 406 L11).
11. The Tribunal required the leaseholders to return a pro-forma to the Tribunal and the Applicant by 13 November 2020 indicating whether they agreed or disagreed with the application. The Respondents did not return the pro-forma.

Determination

12. The Tribunal is satisfied from the Application and the documents that the works are necessary and are required to be done as a matter of urgency. Given those circumstances the Tribunal is satisfied that if the Applicant delayed the works to carry out the statutory consultation it would increase the risk of a failure of the lift system affecting the health and safety of the residents living at the property. The Tribunal finds that the Applicant's proposals to carry out a reduced tender process with the long term service providers would ensure value for money and also that the work would be completed to a reasonable standard. The Tribunal notes that the Respondents have not objected to the Application.
13. The Tribunal is, therefore, satisfied that the leaseholders would suffer no relevant prejudice if dispensation from consultation is granted.
14. **The Tribunal, therefore, dispenses with the consultation requirements in respect of the works** to replace the landing Cills and lift car door track to one of the lifts.
15. The Tribunal's decision is confined to the dispensation from the consultation requirements in respect of the works. The Tribunal has made no determination on whether the costs of those works are reasonable or payable. If a leaseholder wishes to challenge the reasonableness of those costs, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.
16. The Tribunal directs the Applicant to inform the Respondent of the Tribunal's decision and to display the written decision on a noticeboard in the common areas.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

Due to the Covid 19 pandemic, communications to the Tribunal MUST be made by email to rpsouthern@justice.gov.uk. All communications must clearly state the Case Number and address of the premises.